

**U.S. Department of Labor**

Office of Administrative Law Judges  
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**Issue Date: 01 December 2005**

**OWCP NO.: 2004-CLA-00015**  
**CASE NO.: 04-37307**

In the matter of:

**TAMMY MCCUTCHEN, ADMINISTRATOR,**  
**WAGE AND HOUR DIVISION,**  
**UNITED STATES DEPARTMENT OF LABOR,**  
Plaintiff

v.

**SHORE'S MARKET, INC.,**  
Respondent

**DECISION AND ORDER APPROVING CONSENT FINDINGS**

This proceeding arises under Section 16(e) of the Fair Labor Standards Act ("Act"), as amended, 29 U.S.C. 216(e), and the implementing regulations at 29 C.F.R. Part 579. This matter arises from an Order of Reference filed by the Regional Solicitor, Region I, of the United States Department of Labor, on February 27, 2004. The Solicitor imposed a civil money penalty in the amount of \$36,960.00 upon the Respondent for alleged violations of Section 12 of the Act and applicable regulations. This matter is before me for hearing and final determination of the issues raised by Respondent's timely exception to the notice of civil money penalty assessed by the representative of the Administrator of the Wage and Hour Division of the United States Department of Labor.

On November 30, 2005, the parties submitted the following Consent Findings pursuant to 29 C.F.R. Part 18.9 to settle the matter:

I.

By notice dated July 29, 2003, pursuant to section 16(e) of the Fair Labor Standards Act, as amended (29 U.S.C. 216(e)), and in accordance with 20 CFR Part 579, a civil money penalty in the amount of \$36, 960 was assessed by plaintiff against respondent as a result of employment of 31 minors in violation of the child labor provisions of section 12 of the Act (29 U.S.C. 212) and regulations issued thereunder (29 CFR Part 570).

II.

By letter dated August 15, 2003 respondent filed a timely exception to the assessed civil money penalty pursuant to 29 U.S.C. 216(e) and 29 CFR Part 580.6.

III.

Subsequent to the filing of the exception, the Regional Solicitor, Region I, United States Department of Labor, by order of reference, referred this case to the Chief Administrative Law Judge, pursuant to 29 CFR 580.10.

IV.

Plaintiff alleges and respondent admits that at all times pertinent hereto it has been an enterprise engaged in commerce or in the production of goods for commerce within the meaning of sections 3(r) and 3(s) of the Fair Labor Standards Act of 1938, as amended (29 USC 203(r) and 203(s)).

V.

Respondent certifies that it is presently in compliance with the provisions of Section 12 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 212), and the regulations set forth at CFR Part 570, and further states that it will continue in compliance therewith.

VI.

Upon reconsideration of the amount of penalties assessed in this cause, plaintiff does hereby modify the notice of penalty by reducing the assessment of civil money penalties to \$15,500.

VII.

Without admitting liability, Respondent hereby withdraw[s] its exception to the assessment of civil money penalties, agrees to accept the modified penalties as final and binding, and agrees to tender payment of \$15,500 to plaintiff by December 15, 2005.

VIII.

Any order entered in accordance with these consent findings shall, pursuant to 29 CFR 18.9(b)(1), have the same force and effect as an order made after full hearing.

IX.

The entire record upon which any final order may be based shall, pursuant to 29 CFR 18.9(b)(2), consist of the notice of penalty, as modified herein, and these consent findings.

X.

The signing of these Consent Findings waives any claim either party has to costs and/or attorney fees.

All further procedural rights provided by 29 CFR Part 580, and any rights to contest the validity of these consent findings or any order issued pursuant hereto are hereby waived. See, 29 CFR 18.9(b)(3) and (4).

After reviewing the Consent Findings, I conclude that this settlement is in the best interest of all the parties and it is therefore **ORDERED** that the Consent Findings shall be, and the same are hereby **APPROVED** pursuant to the provisions of 20 CFR Part 18.9.

**SO ORDERED.**

**A**

**COLLEEN A. GERAGHTY**  
Administrative Law Judge

Boston, Massachusetts